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ATTORNEY DOCKET NO. Travel/SCH
Serial No. 09/514,053

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Scott C. Harris   Art Unit: 3626
Serial No.: 09/514,053   Examiner: R. W. Morgan
Filed   : February 25, 2000
Title   : GRAPHICAL TRAVEL SYSTEM FOR THE INTERNET
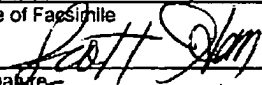
APPLICANTS BRIEF ON APPEAL

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant herewith files this Brief on Appeal under 37 C.F.R. 41.37, thereby

perfecting the Notice of Appeal that was originally filed on September 16, 2004. Please

charge the Appeal Brief fee of $170.00 to deposit account no. 50-1387.

CERTIFICATE OF FAX TRANSMISSION

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Scott Harris
Typed or Printed Name of Person

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Real Party in Interest

This case is not assigned, and the inventor is the real party in interest.

Related Appeals and Interferences

There are no known related appeals or interferences.

Status of Claims

Claims 2, 3, 5 and 8-17 are rejected, and each of these claims are appealed.

Status of Amendment

No Amendment After Final rejection has been filed.

Summary of Claimed Subject Matter

The claims define aspects of a graphical travel system that is intended for use over the Internet. A operation is between a client computer and a server computer, see generally page 4, server computer 500, and one or many clients 520. The client computer runs a program that exchanges information with a server over a network such as the Internet, see generally page 4. The graphical user interface is described beginning at page 5 lines 17, which displays a map of the image as a hyperlinked image, see next-to-last paragraph on page 6. The user 210 places the cursor over a part of the image and selects. This can be done for both the starting point and the

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ending point, see page 7 first full paragraph. Page 7, second full paragraph as described beginning at step 215, allows expanding the allowable geographic area, thereby forming, in the words of the claims, "a changed in size area". When the system prices the trip, see page 8, it may include each airport within the radius selected, see pages 7; eight lines from the bottom.

Claim 8 defines an alternative option where the system displays information about how much the trip deviates from the optimum trip. See Figure 1B which shows the direct or optimum route (straight line), and the triangular-shaped actual trip which deviates from the optimum route.

Grounds of Rejection to be Reviewed on Appeal

Each of the grounds of rejection advanced by the Patent Office are appealed herein. Specifically, the grounds to be appealed are:

whether claims 8, 9, 12, 15 and 16 are properly rejected as being unpatentable over DeLorme in view of Smith;

whether claims 14 in 18 are properly rejected over DeLorme in view of Smith in view of Iyengar;

whether claims 2, 3, 5 and 10 are properly rejected over DeLorme in view of Smith in view of Official Notice;

whether claim 13 is properly rejected over DeLorme in view of Smith in view of Malamud; and

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whether claims 11 and 17 are properly rejected over DeLorme in view of Smith in view of Sehr.

Argument

Rejection number 3, beginning on page two of the last official action, paper number 14, rejected claims 8, 9, 12, 15 and 16 under 35 U.S.C. 103(a) as allegedly being unpatentable over DeLorme in view of Smith.

The scope and contents of the prior art will first be discussed. DeLorme teaches a travel reservation system that is computerized and allows various operations. Basically, the user constructs a travel route that includes transportation routes, waypoints and points of interest. The software assembles the user customized travel route for the trip see generally DeLorme column 7 beginning line 23. The display permits "user selection of a travel origin, travel destination and desired waypoints". Column 8 line 35. The software "calculates, delineates and displays a travel route between the travel origin and a travel destination", line 37. As part of this operation, the user can select the shortest travel route, quickest travel route or scenic way of determining the route.

Once the travel route has been calculated, the software may display a user customized map of the travel, see column 9 lines 50-51. The system and its calculations are described in detail throughout the 78 columns of disclosure of the patent. However, nowhere is the specific subject matter now claimed in any way disclosed throughout any of those 78 columns.

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Smith teaches a system that allows maintaining and preserving "referential integrity" within web sites. This is done by changing some aspect of the hyperlink to allow the hyperlinks to be changed and allows nested parts of the hyperlink to be similarly changed. One's of Smith's disclosed applications is in a travel reservation page, see column 11 line 6. Smith's technique avoids the need to change URLs when the documents are moved; see column 11 lines 64-65.

Claim 8 requires a client computer that communicates with a server computer over a network, and allows starting area for travel and ending area for travel to be selected by a cursor, displays information about a selected trip from the starting to the ending area "including information about how much the trip deviates compared with an optimum route from said starting area to said ending area" (emphasis added). The rejection states that DeLorme teaches input and output systems for travel, including alternative modes of transportation. However, nowhere is there any teaching or suggestion of the claimed feature of displaying "information about how much the trip deviates compared with an optimum route from said starting area to said ending area".

In rejecting this claim, the rejection states that "the Examiner considers comparing costs equivalent to how much the trip deviates when comparing the optimum route...". With all due respect, however, this interpretation does not attribute a reasonable meaning to the claim language. Claim 8 requires the client computer to display information about the selected trip "from said starting area to said ending area", and that this must include information about "how much the trip deviates compared with an optimum route from said starting area to said ending area". Comparing cost

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information has nothing to do with an optimum route from said starting area to said ending area. Optimum is not a synonym for "cheapest" or "lowest price". Cost information has nothing to do with an "optimum route ... from said starting information to said ending area". The "comparing cost" postulated by the rejection does not suggest displaying information about how much the trip deviates compared with an optimum route from said starting area to said ending area. In normal English, comparing costs would not be considered an "optimum route".

The rejection also admits that DeLorme does not teach hyperlinked images including a cursor that is actuated to select beginning and end for travel. The rejection alleges that this is taught by Smith's column 10 line 25 through column 11 line 13. This contention, however, is respectfully traversed. Smith does describe a travel website, and describes "a hyperlink to a travel agency site" see column 10 lines 29-30. Smith also describes hyperlinks to each of the pages "referenced by the picture icons/text blocks" see line 38. Smith describes that the user can click on either an icon or a text block tool to find specialized pages: e.g. a cruise page or other specializied pages; there is an Alaska icon text block see lines 56-57, a Caribbean page, a Puerto Rico page, a Mexico page, and the like. While clearly this does show icons for the different areas, Smith teaches nothing about the specific claimed subject matter in which the user selects a link on the hyperlink image for "a desired starting area for travel" and selects a link on the hyperlink image for "a desired ending area for said travel". Even assuming that Smith were combined with DeLorme, all it would do is add a Smith type system in which hyperlinks allow calling up of different specialized travel pages, e.g., a

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different page for Alaska, a different page for Caribbean, a different page for Puerto Rico and so on. Nowhere is there any teaching or suggestion of selecting both the starting area for travel and the ending area for travel from a hyperlinked image, as claimed.

The rest of Smith is entirely consistent. For these reasons, even assuming that the hypothetical combination of DeLorme and Smith could be made in the way suggested by the rejection, it would only teach a DeLorme system, along with Smith's teaching of clicking a link to go to a special page for special travel destinations. The hypothetical combination would not teach allowing entry of a desired starting area for travel and a desired ending area for travel by selecting links on a hyperlink image. Moreover, it teaches nothing about displaying Information about a selected trip including "information about how much the trip deviates compared with an optimum route from said starting area to said ending area".

Claim 9 requires that the amount of deviation includes the travel times of the different routes. Recall that this is in combination with claim 8, which requires that an amount of deviation is displayed. In rejecting claim 9, the rejection states that the TRIPS software allows proposing an initial departure point and final destination points, and that one or more routes are computed. The routes can be quickest, shortest, scenic and so on as pointed out on page 4 of the official action. Nowhere is there any teaching or suggestion, however, that the client computer displays information about how much the travel times of the different routes compare with an optimum route. According to Delorme, either one route, or another, can be calculated. There is no

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teaching or suggestion of calculating both routes, and then displaying the amount of deviation of travel time between an optimum route and the calculated route.

Claim 12 specifies a hyperlinked image including hyperlinks for plurality of airports, that the movable element is actuated to select an area of a hyperlinked image including one airport and variable to change the number of airports which are included within the area.

First, as discussed above, DeLorme in view of Smith does not teach or suggest selecting hyperlinks for plurality of airports, which airports form beginning and end points of the trip. See above. At best, DeLorme in view of Smith teaches that the user can select an area, such as the Caribbean, and get a special web page for that area. Also, importantly, however, claim 12 requires that "the movable element being variable to change a number of said airports which are included within said area" and that the area sets the beginning or end of the trip. Therefore, this movable element can change the number of airports which are set as the beginning or end point of the trip according to claim 12. Nowhere is this taught or suggested by DeLorme in view of Smith.

The rejection refers to waypoints which, by definition, are not the beginning or end of the trip.

Page 4 of the rejection states the terminology is not restricted to illustration but may also include other means. However, this kind of speculation does not support the patent office's burden of showing that the prior art renders obvious this or any other feature.

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Similarly, the statement that DeLorme teaches that the user can optionally input preferred modes of transportation, does not show that DeLorme teaches or suggests the specifically claimed feature of the movable element being variable, as discussed above. Therefore, claim 12 should be allowable for these reasons.

Claim 15 should be allowable for similar reasons. Claim 15 defines determining an optimal flying route between the beginning and end points, and displaying the actual flying route relative to the optimal flying route. As described above, DeLorme teaches selecting ONE OF quickest, shortest, scenic, and the like. However, it never teaches or suggests displaying an actual route relative to the optimum route. Therefore, claim 15 is not suggested and should be allowable.

Rejection number 4, on page 6 of the official action, rejected claims 14-18 over DeLorme in view of Smith and further in view of Iyengar. Each of claims 14-18 depend from claim 12 and hence should be allowable by virtue of their dependency from claim 12 as discussed above. The additionally cited reference to Iyengar is cited to show the ability to search for airports "near" the departure city and near the arrival city. However, claim 14 requires that there is more than one airport within the beginning or end location, and that the more than one airport has been selected as part of the area. While admittedly Iyengar teaches that you can look for airports near the departure and/or arrivals city, and that the user can add at least one additional criteria, there is no teaching or suggestion of the specifics of claim 14. DeLorme in view of Smith and Iyengar does not teach or suggest selecting an area which includes more than one airport within the beginning and end points, and displaying them as required by claim

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14. Iyengar teaches finding nearby airports, but does not suggest selecting them, and certainly not in the way required by claim 14.

Claim 18 requires a binding offer to be made for travel to or from any of the airports. In rejecting claim 18, the rejection simply ignores the binding offer language of claim 18. In fact, claim 18 is entirely new, compared with other binding offer type systems. In other binding offer type systems, the user gets to choose their start and end point. In this system, not only does the user not have choice of airline, they also do not have a choice of the exact start and/or end point. Specifically, claim 18 allows a binding offer between any of the beginning points and any of the end points, where there are more than one airport within one of the beginning or end points. This is quite simply not taught or suggest by the cited prior art, and therefore claim 18 should be even further allowable.

Claims 2, 3, 5 and 10 stand rejected over DeLorme in view of Smith and further in view of official notice. This contention remains respectfully traversed. Claim 2 requires selecting a starting area with a cursor on a map, and an ending area with a cursor on a map and that at least one of the starting area are ending area can be changed in size to form a changed in size area.

As described above, DeLorme in view of Smith does not teach selecting a desired starting point for travel and a desired ending point for travel by placing a cursor over a map. These arguments are equally applicable to claim 2. The rejection alleges that it is well-known in the computer field that a cursor could be used for this kind of selection. With all due respect, this is respectfully traversed. Cursors have been known

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to be used for many different features, however nowhere has there ever been teaching

or suggestion that a cursor should be used to select a beginning and end of a trip from a

graphical user interface that displays a map of the area within which the travel will occur

as claimed. Moreover, nowhere is there any teaching or suggestion that at least one of

the starting area or ending area can be changed in size as claimed. With all due

respect, the taking of official notice is entirely inappropriate here, and takes into account

hindsight.

Note that M.P.E.P. 2144.03 states that Official Notice is permissible only in rare

circumstances, and only when it is not amenable to rational disagreement among

reasonable men. Clearly the official notice here is well beyond that. The official notice

takes into account hindsight, and assumes that the prior art can be modified using the

official notice in a way which has never been done, and never been contemplated. The

hypothetical combination quite simply does not teach or suggest this subject matter.

Claim 10 defines that the starting and ending size "is operative to add or subtract

points within said area". The rejection states that this is met by zooming and DeLorme.

However, zooming simply changes the way that something is seen. It does not change

the size of the area SELECTED on the computer screen, but rather changes the size or

magnification of the screens. Moreover, it is certainly not known to change in size an

area on a computer screen to add or subtract airports within that area, as claimed.

Claim 13 was rejected over DeLorme in view of Smith and further in view of

Malamud. Claim 13 should be allowable by virtue of its dependency on claim 12, the

allowability of which has been discussed in detail above. In addition, however, claim 13

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defines a processor programmed to display screen tip information about the airports.
Malamud teaches "information pointers", that display additional information based on
lingering near an object. However, nowhere does the prior art teach or suggest a
screen tip that includes additional information "about at least one of the plurality of
airports". Therefore, the hypothetical combination does not render obvious claim 13.

Claims 11 and 17 were rejected based on DeLorme in view of Smith and further
in view of Sehr. Sehr was provided to show a biometric box that digitizes biometric
characteristics. The biometric box can be imprinted on the passenger card and can be
compared with biometric information that was previously stored in a remote database.
Nowhere, however, does Sehr teach or suggest entering biometric information "that is
used to access a stored travel itinerary from the client computer". Column 4 lines 27-32
of Sehr teaches making the reservation, but nowhere is there any teaching or
suggestion that the biometric box is used, as claimed, to access a stored travel itinerary.

Claim 17 similarly defines a biometric information reader, where the processor
controls the client computer to obtain the biometric information, the server stores travel
information that is associated with the biometric information and returns that travel late
information to the client based on the biometric information sent from the client. Sehr
teaches a biometric box as part of a travel system. It teaches nothing about, however,
pulling up the travel itinerary based on this biometric information. Rather, this only
teaches using the biometric information to determine if the passenger is the legitimate
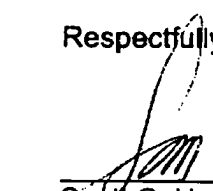cardholder.

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In view of the above, therefore, it is respectfully suggested that the rejections do not properly meet the Patent Office's burden of providing a prima facie showing of unpatentability. Reversal of the Patent Office's position is respectfully requested.

Please charge any fees due in connection with this response to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 11-10-04

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Appendix: All Claims on Appeal

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2. A system comprising:

a server computer having travel information;

a client computer, having a cursor moving element, and an actuator that is actuated to select a current position of said cursor moving element, said client computer connected to said server computer over a network, and running a server interfacing program, which exchanges information with said server, said server interfacing program operating to produce a graphical user interface that allows entry of a desired starting area for travel, and a desired ending area for said travel, said graphical user interface displaying a map of an area within which the travel will occur, and allowing said starting area for said travel to be selected within said area by using said cursor moving element to place a cursor of the graphical user interface over said starting area, and actuating said actuator to select said starting area, and allowing said ending area for said travel to be selected by using said cursor moving element to place the cursor of the graphical user interface over said ending area, and actuating the actuator to indicate said end area, said server interfacing program receiving said starting area, and said ending area, sending first travel information about both said starting area and said ending area to said server, and receiving travel information from said server indicative of travel options between the selected starting area and ending area,

wherein said server interfacing program further allows at least one of said starting area or said ending area to be changed in size to form a changed in size area, by using said cursor moving element to change a size of said at least one, and wherein said first travel information includes information about said changed in size area, and

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said travel information received from said server includes options for different locations within said changed in size area.

3.   A system as in claim 2, wherein said server computer produces an image of a line extending between said starting point and said ending point, overlaid on said map.

5.   A system as in claim 3, wherein said line includes an indication of a stopping point between said beginning point and said ending point.

8. A system comprising:

a server computer having travel information;

a client computer, having a cursor moving element, and an actuator that is actuated to select a current position of said cursor moving element, said client computer connected to said server computer over a network, and running a server interfacing program, which exchanges information with said server, said server interfacing program operating to produce a graphical user interface that includes a hyperlinked image, that allows entry of a desired starting area for travel, and a desired ending area for said travel by selecting a link on the hyperlinked image, said graphical user interface displaying a map of an area within which the travel will occur, and allowing said starting area for said travel to be selected within said area by using said cursor moving element

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to place a cursor of the graphical user interface over said starting area selecting a first link on the hyperlinked image, and actuating said actuator to select said starting area, and allowing said ending area for said travel to be selected by using said cursor moving element to place the cursor of the graphical user interface over said ending area, and actuating the actuator to indicate said ending area by selecting a second link on said hyperlinked image, said server interfacing program receiving said starting area, and said ending area, sending first travel information about both said starting area and said ending area to said server, and receiving travel information from said server indicative of travel options between the selected starting area and ending area;

wherein said client computer displays information about a selected trip from said starting area to said ending area, including information about how much the trip deviates compared with an optimum route from said starting area to said ending area.

9.   A system as in claim 8, wherein said amount of deviation includes information about travel times of different routes.

10.   A system as in claim 2, wherein said starting area and ending area include information about airports within said areas, and said changing size is operative to add or subtract airports within said areas.

11.   A system as in claim 8, further comprising a memory storing a travel itinerary on the server computer, and a biometric information entry device at the client

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computer, which allows entering biometric information that is used to access a stored

travel itinerary from the client computer.

    12.   A system, comprising:

    a server computer, storing travel information;

    a client computer, having a processor that is programmed to display a graphical

user interface, displaying a hyperlinked image including hyperlinks for a plurality of

airports which airports can form begin and end points of a trip, said hyperlinked image

being based on information from said server computer, and said client computer

including a movable element which is movable over said hyperlinked image, and said

movable element is actuated to select an area of said hyperlinked image including at

least one airport, and said movable element being variable to change a number of said

airports which are included within said area, and said movable element permitting

selection of said area as said begin and/or end point of the trip.

    13.   A system as in claim 12, wherein said processor is programmed to display

a screen tip based on information from said server computer, said screen tip including

additional information, which is additional to the information included on said

hyperlinked image, about at least one of said plurality of airports.

    14. A system as in claim 12, wherein said processor is operative to determine a

matrix of flights between all airports within an area for said begin point and all airports

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within an area for said end point, where there is more than one airport within at least one of the beginning or end points.

15.   A system as in claim 12, wherein said processor is operative to determine an optimal flying route between said begin point and said end point, and display an actual selected flying route relative to said optimal flying route.

16.   A system as in claim 15, wherein said processor is further operative to determine a deviation between the optimal flying route and said selected flying route.

17.   A system as in claim 12, further comprising a biometric information reader associated with said client computer, wherein said processor controls said client computer controls obtaining said biometric information, and said server computer stores travel information about individuals that is associated with biometric information about the individuals, and returns said travel information to said client computer based on biometric information sent from said client computer.

18.   A system as in claim 12, further comprising allowing a user to make a binding offer, including payment information, for any of plural airline routes between any of said begin points, and any of said end points, where there are more than one airport within at least one of the beginning points or end points.